



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q98835

Klaus LENHART

Appln. No.: 10/511,294

Group Art Unit: 3679

Confirmation No.: 2233

Examiner: Ernesto Garcia

Filed: October 15, 2004

For: ADJUSTABLE-LENGTH TUBE, IN PARTICULAR FOR POLES

SECOND DECLARATION OF KLAUS LENHART UNDER 37 C.F.R. § 1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Klaus Lenhart, hereby declare and state:

THAT I am the inventor of the invention disclosed and claimed in the present application, and that I previously submitted a Declaration dated December 18, 2009 in the present application, the entire content of which is incorporated herein by reference;

THAT I have reviewed the outstanding Office Action from the US Examiner dated December 23, 2008 in the above referenced application, especially the Examiner's comments in the section entitled Interview at page 3 and the Examiner's comments in the section entitled "Response to Arguments at pages 18-21 with regard to the prior art cited and applied in various combinations by the Examiner, including Lenhart (DE-29,706,849), Neuheiten (Swiss Patent CH-267,177), DSI (DE-8,004,343 U1), Kupski (US-3,145,669) and Mazzolla (US-4,238,164);

THAT I continue to conclude that none of the prior art references, alone or in combination, teach or suggest my invention as set forth in the currently pending claims;

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THAT, I continue to conclude that the prior art references are incompatible with each other and are not combinable in a manner that would lead to my invention and, in fact, are even incompatible with respect to each of multiple embodiments that are disclosed in each reference, as detailed in my Declaration dated December 18, 2009;

That the Examiner's description of the manner in which the invention operates, particularly the structural and operable relationship between the fins, the limit stops and the radially spreadable element is incorrect in several respects;

THAT the original specification fully supports my invention as set forth in the currently pending claims, especially the feature that the radially spreadable element is "contactable with each limit stop," as evidenced by the appended model of my invention and the incorporated photographs of the model; and

THAT, at least because the prior art does not have a teaching of a radially spreadable element that is "contactable with each limit stop," by the Examiner's own admission, the claims should be found allowable as they were during the interview with the Examiner that I attended.

I. My Model of the Claimed Invention

I have attached as an Exhibit A to this Declaration a model of my invention, as constructed under my direction and control, according to the embodiment illustrated in Figs. 1-3 of the original and substitute specification of the above referenced application. The model has inner and outer tubes that are shortened, as compared to a practical implementation in an adjustable-length ski pole or walking stick. The model is labeled with reference numbers that correspond directly to the reference numbers used in the specification of my application.

Photographs of the spreading device model in assembled (Photo 1: contact of radially spreadable element with limit stop disposed at an end of the inner tube and Photo 2: contact of radially spreadable element with limit stop limit stop disposed on free end of the adjusting screw) and disassembled states (Photos 3 and 4, the latter rotated by 90 deg) are reproduced below, accompanied by a list of the reference numbers and the corresponding structures.

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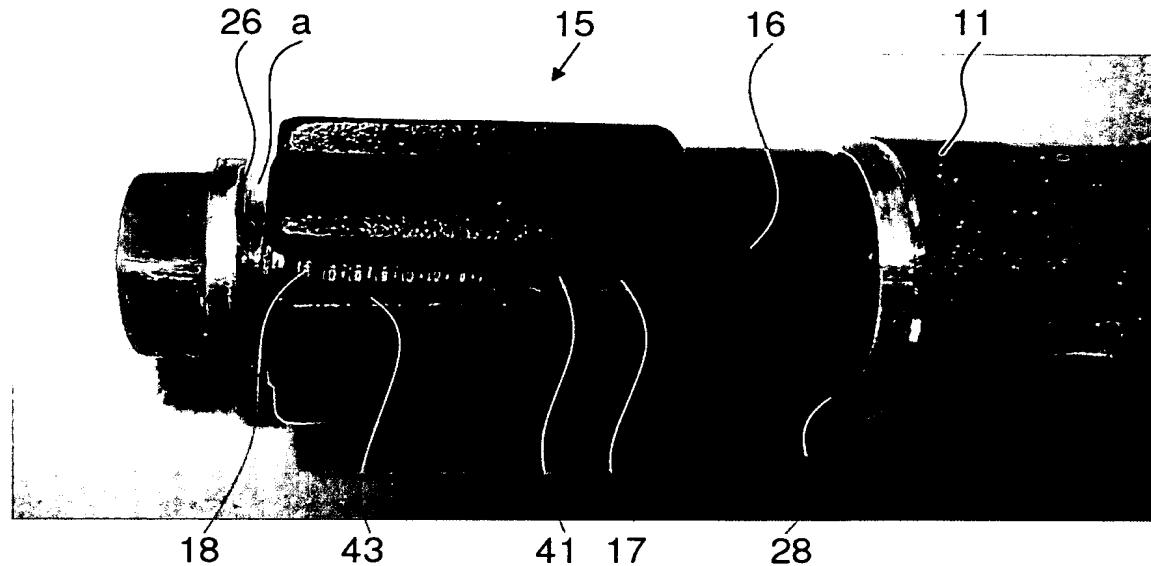


Photo 1

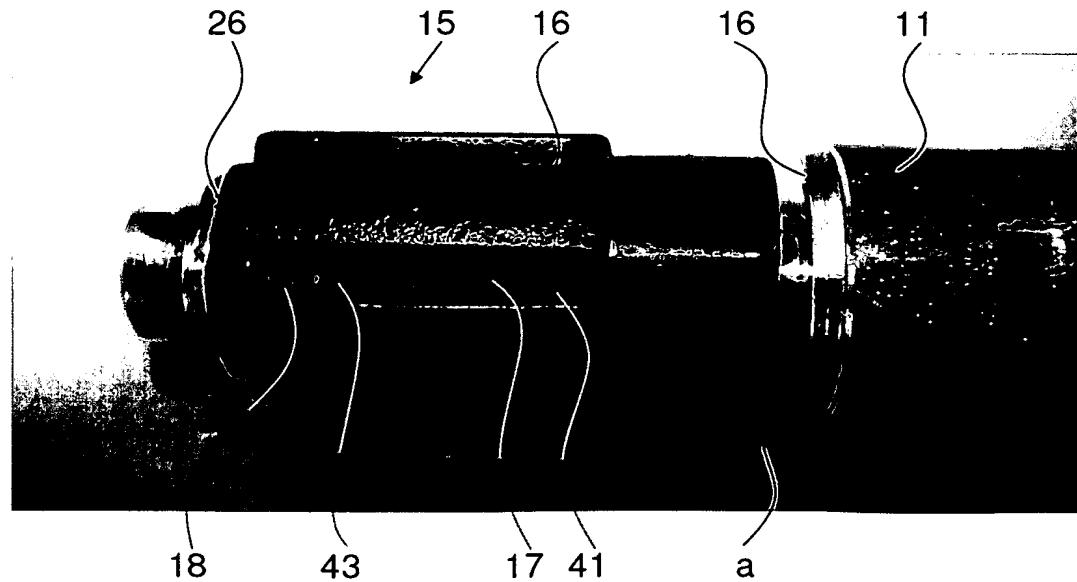


Photo 2

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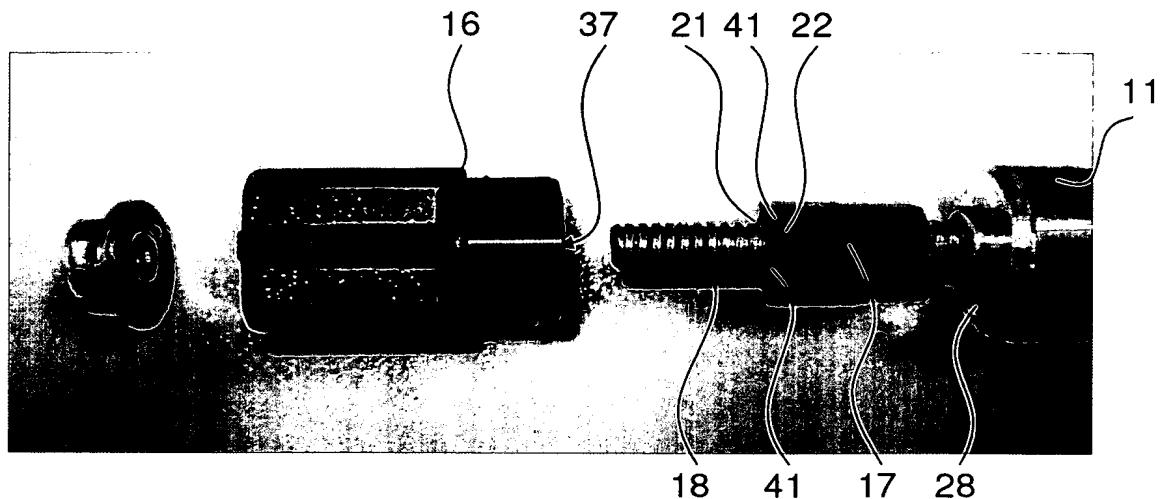


Photo 3

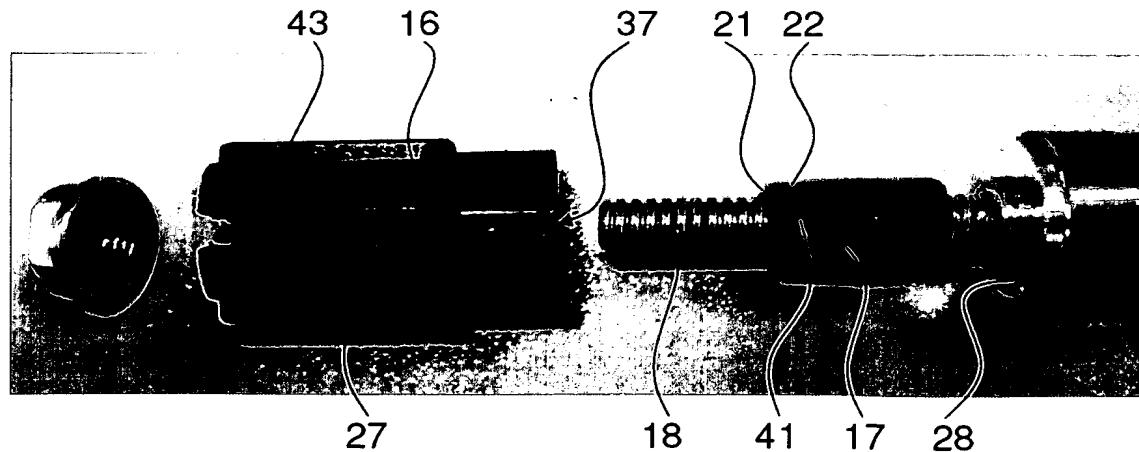


Photo 4

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11 inner tube
15 spreading device
16 spreadable element
17 interior element
18 adjusting screw
21 internal threaded bore
22 outer cone
26 limit stop disposed on the free end of the adjusting screw
27 single inner cone
28 limit stop disposed at the end of the inner tube
37 non-threaded bore
41 protruding fins
43 axial slot
a gap distance

II. The Claimed Invention

A. Claim 8

In my Declaration dated December 18, 2008, I demonstrated the manner in which the invention, as now defined in independent claim 8, is clearly supported by the original disclosure. In further support of that declaration, I am repeating that demonstration with reference to the appended model of the invention (Exhibit A) and the text of the attached published application 2005/0207829 (Exhibit B).

As demonstrated by the following current text of claim 8, as annotated with reference characters from Figs. 1-3 and the paragraphs of the attached published application 2005/0207829 (Exhibit B), currently pending claim 8 recites as follows:

An adjustable-length pole (10), the pole comprising:

at least one outer tube (12);

an inner tube (11) structured and dimensioned for insertion into the outer tube in a telescoping fashion for adjusting a length of the pole;

a limit stop (28) disposed at an end of the inner tube;

an adjusting screw (18) being axially oriented within the outer tube, non-rotatable with respect to the inner tube and supported in a fixed manner on the end of the inner tube;

a limit stop (26) disposed on a free end of the adjusting screw;

a radially spreadable element (16) with a non-threaded bore (37) and with only one single inner cone (27), the inner cone opening towards the end of the inner tube (11), wherein the radially spreadable element is disposed with its axial length between the limit stop disposed at the end of the inner tube (28) and the limit stop disposed on the free end of the adjusting screw (26), and wherein the distance between the limit stops is larger than the axial length of the radially spreadable element by a gap distance (a), such that the radially spreadable element is moveable axially within the distance between the limit stops, including the gap distance, without rotation thereof and is contactable with each limit stop (*See [0023]; element 16 has a main body 23, pot base 36 and shoulder 38; Fig. 1 shows contact with stop 26 and contact of shoulder 38 of element 16 with stop 28 occurs due to axial force, as explained in [0030]; lack of rotation is explained at paragraph [0026]*); and

an interior element (17) having an internal threaded bore (21) and an outer cone (22) tapering towards the free end of the adjusting screw and being structured, dimensioned, and disposed for cooperation with the inner cone (27) of the radially spreadable element (16), wherein the interior element is screwed onto the adjusting screw and is axially movable with respect to the inner tube by rotation thereof via the internal threaded bore ,

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wherein the radially spreadable element and the interior element cooperate to form a spreading device (15) supported axially at the end of the inner tube, the spreading device for clamping the inner tube within the outer tube.

B. Claim 15

The invention as now defined in amended independent claim 15 is clearly supported by the original disclosure, as demonstrated by the following current text, as amended by the accompanying Amendment under 35 U.S.C. § 111 and as annotated with reference characters from Figs. 1-3 and the paragraphs of the attached published application 2005/0207829(Exhibit B). Annotated and amended claim 15 recites as follows:

An adjustable-length pole (10), the pole comprising:

at least one outer tube (12);

an inner tube (11) structured and dimensioned for insertion into the outer tube in a telescoping fashion for adjusting a length of the pole;

a limit stop (28) disposed at an end of the inner tube;

an adjusting screw (18) being axially oriented within the outer tube, non-rotatable with respect to the inner tube and supported in a fixed manner on the end of the inner tube;

a limit stop (26) disposed on a free end of the adjusting screw;

a radially spreadable element (16) with a non-threaded bore (37) and with only one single inner cone (27), the inner cone opening towards the end of the inner tube (11), wherein the radially spreadable element is disposed with its axial length between the limit stop disposed at the end of the inner tube (28) and the limit stop disposed on the free end of the adjusting screw (26), and wherein the distance between the limit stops is larger than the axial length of the radially spreadable element by a gap distance (a), such that the radially spreadable element is moveable axially within the distance between the limit stops, including

the gap distance, without rotation thereof (*See [0023]; element 16 has a main body 23, pot base 36 and shoulder 38; Fig. 1 shows contact with stop 26 and movement so that shoulder 38 of element 16 contacts stop 28 occurs due to axial force, as explained in [0030]; lack of rotation is explained at paragraph [0026]*); and

an interior element (17) having an internal threaded bore (21) and an outer cone (22) tapering towards the free end of the adjusting screw and being structured, dimensioned, and disposed for cooperation with the inner cone (27) of the radially spreadable element (16), wherein the interior element is screwed onto the adjusting screw and is axially movable with respect to the inner tube by rotation thereof via the internal threaded bore ,

wherein the radially spreadable element and the interior element cooperate to form a spreading device (15) supported axially at the end of the inner tube, the spreading device for clamping the inner tube within the outer tube,

wherein said interior element (17) has a plurality of radially protruding fins (41), each of said fins being guided in an axial slot (43) of the radially spreadable element (17) for axial movement thereof (*see [0026] and Figs 1-3 where fin 41 extends partway into slot 43, which is formed in the radially thick walls of the spreadable element 16, and axially guided so that it is effective to prevent rotation of spreadable element 16 with respect to interior element 17*), and

wherein said axial slots (43) have an axial length which is larger than the axial length of said fins (41) and said interior element (17) has a plurality of radially protruding fins (41), each of said fins (41) being guided in a respective axial slot (43) of the radially spreadable element for axial movement of said fins within said slots, and

wherein said axial slots (43) have an axial length which is larger than the axial length of said fins and respective pairs of said axial slots and said radially protruding fins structurally cooperate to permit said interior element (17) to move axially as the adjusting

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screw (18) is rotated with respect to said interior element (17) without rotation of said radially spreadable element (16).

C. Claims 10 and 16

Claim 10 and amended claim 16 have added limitations that are similar to claim 8 and amended claim 15 and the foregoing demonstration of support for the limitations in the claims 8 and 15 would apply to claims 10 and 16, respectively.

D. Claims 21, 23, 24 and 25

The limitations added by amended claims 21 and 23, and new claims 24 and 25 are clearly seen in Figs. 1-3 and have support at paragraph [0026].

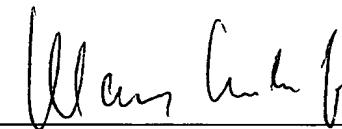
E. Claim 26

The limitations added by this new claim, which expressly define the resulting combination of the inner tube (11), outer tube (12) and spreading device (15) in an assembled form as an adjusted length pole, are clearly supported by the text in at least paragraphs [0028]-[0030].

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I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 2009/05/13



Klaus Lenhart